

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7069 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DAHYYALAL M PANCHAL

Versus

GAGAN ENGINEERING ENTERPRISES

Appearance:

MR RC PATHAK for Petitioner

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 18/09/96

ORAL JUDGEMENT

The petitioner challenges the award of the Labour Court dated 30.12.1995 dismissing the reference made under Section 10(1)(c) of the Industrial Disputes Act, on the question as to whether the petitioner should be reinstated in his original post with back-wages.

The petitioner's case was that he had put in more than 7 years of service as a Shaping Machine Operator with the employer and his service was terminated without

following the legal procedure on 27.1.1989. The case of the employer was that the petitioner had resigned on 25.1.1989 voluntarily and received all his dues including gratuity against a receipt for an amount of Rs. 4,750/-.

The learned Counsel appearing for the petitioner strongly contended that the petitioner was a literate person and the hand-writing in the letter of resignation was of someone else which showed that the petitioner had not tendered his resignation. It was further argued that the Labour Court could not have compared the signatures for holding that the signature in the resignation letter was that of the petitioner. It was also contended that the Labour Court has not taken into consideration the fact that the undertaking of the original employer came to be transferred on 15.5.1989 and it was with a view to facilitate the transfer that the employer had stage managed the situation and created the story of resignation.

The Labour Court after considering in detail the contentions raised by both the sides, came to the conclusion that the resignation letter dated 25.1.1989 was voluntarily given by the petitioner and that he had issued the receipt for the amount received by him. On appreciation of the evidence on record, the Labour Court found that the letter of resignation was under the signature of the petitioner. In the process, the Labour Court also compared the disputed signature with the admitted signatures of the petitioner. Under Section 73 of the Indian Evidence Act, in order to ascertain whether signature is that of the person by whom it purports to have been made, the Court may compare admitted or proved signature with the one which is to be proved. Under Section 3 of the Indian Evidence Act, the word "Court" is defined so as to include all the Judges and Magistrates and all persons, except Arbitrators, legally authorised to take evidence. The Labour Court is legally authorised to take evidence and is Court within the meaning of Section 3 of the Evidence Act. It therefore follows that the Labour Court can compare the disputed signature with the admitted signatures of a person, under Section 73 of the Evidence Act. The Labour Court has therefore, acted in lawful exercise of its jurisdiction in making the said comparison. In this context, it will be pertinent to note that it is not as if there was no other evidence on record showing that the signature on the resignation letter was that of the petitioner. The employer's witness in terms deposed that the said resignation letter was bearing the signature of the petitioner. It is also deposed that one Valjibhai had

signed as a witness. It is stated that an amount of Rs.4,750/-, being the dues of the petitioner, had been paid to him under a receipt. He had also referred to the Provident Fund form and other documents. All this material indicated to the Labour Court that the letter of resignation was given by the petitioner voluntarily, and, there is absolutely no reason to reappreciate the evidence for coming to a different conclusion. Since the petitioner had resigned on 25.1.1989, the contention raised on behalf of the petitioner regarding transfer of the undertaking on 15.5.1989 pales in to insignificance.

The Labour Court has lawfully exercised its jurisdiction on the basis of the material on record, warranting no interference with the impugned award. The petition is therefore, rejected.

(R.K.Abichandani,J.)